

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC

In the matter of:	)	
	)	
“Need for Speed” Information for Consumers	)	CG Docket 09-158
	)	
of Broadband Services	)	

**COMMENTS OF THE CITY OF IOWA**

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## **Introduction**

As the cable TV franchising authority the City of Iowa is particularly well positioned to provide a constructive insight into some of the issues raised in this Notice of Inquiry. The local cable TV provider, Mediacom, offers cable TV, Internet, and landline phone services. Although the City's legal authority is limited to cable TV, the City Cable TV Office receives inquiries, complaints, and comments regarding all three services. The comments below directly address several of the issues raised in the NOI as well as an issue that is directly related to the general intent of the NOI and is an important element of the information a consumer needs to make a fully informed choice regarding the performance of broadband services. Specifically, these comments assert that the FCC needs to address data caps and usage based billing in addition to broadband speed.

## **Service characteristics consumers need to consider to determine their broadband performance requirements<sup>1</sup>**

Bandwidth speed is the single most important factor for the vast majority of consumers in determining the level of service needed to meet their needs. Most importantly, peak hour speed is the only meaningful measure by which to determine the level of performance that is required to meet a consumer's needs. The FCC has documented that *typical* speeds are half of those advertised as "up to". Unless consumers understand that "up to" speeds really mean "usually about half" and quite often much less than half during peak periods they will be unable to make informed marketplace choices. For example, a high-definition stream from Netflix is often said to require 6 Mbps. A consumer in the current marketing environment might conclude their 8 Mbps connection should be capable of providing the service when, in fact, they would be unable to receive 6Mbps on average and rarely have enough during peak periods. Broadband providers

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<sup>1</sup> Portions of these comments will not apply to DSL service that provides a fixed amount of bandwidth.

should be required to set a floor of minimum speed based on peak hour speeds and provide this information at the time a consumer subscribes to a service.

Similarly, consumers need to be fully informed of the speed requirements of common broadband applications. The NOI appendix identifies typical applications and a range of speeds needed for acceptable use. The ranges, however, would not provide adequate information for a consumer to determine their needs without knowledge of minimum floor speeds. For example, a standard definition video stream is said to require 1-5 Mbps. Hulu suggests a 1.5 Mbps connection. Using the NOI 1-5 Mbps guideline and Hulu's 1.5 Mbps requirement would suggest to a consumer that an "up to" 3 Mbps cable modem connection would be sufficient when it is not. In addition, if broadband providers are required to guarantee a minimum floor for speeds, consumers will know if there are technical problems with the broadband network that requires attention. Broadband providers should be required to inform consumers how to test their speed and line quality<sup>2</sup> so they will know if they are receiving what they have paid or if a technical service call is needed.

When speed levels fall below the floor providers should be expected to split an over-subscribed node within a specific period of time. Often they do not meet this obligation. In Iowa City, for example<sup>3</sup>, one subscriber paying for a 12 Mbps service was informed that his node, which was delivering 2 Mbps during peak period, would not be split for six months. Subscribers should have the option to be informed by email every time the minimum floor speed is not met. Just as it is important to know floor speeds before a service is contracted, actual performance needs to be known to determine if the service should be continued.

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<sup>2</sup> For one example of a line test site see: <http://192.168.100.1>. One shortcoming of the site is it does not provide a means to interpret the information. Use of a line test by consumers has the additional benefit of identifying a common source of poor technical performance that can be easily corrected by the consumer rather than the broadband provider sending out a technician.

<sup>3</sup> <http://www.dslreports.com/forum/r21917493-Mediacom-Bandwidth-Limits->

Clearly, the “need for speed” is paramount for most subscribers. Yet there is another consideration of increasing significance not addressed in the NOI that is directly related to its intentions –data caps and usage based billing. About 56% of subscribers now have data caps<sup>4</sup>. AT&T recently announced caps of 150 GB for their DSL service, which they estimate will impact 2% of their subscribers. That 2% will likely grow quickly over a short period of time if the growth in online video content delivery proceeds at the current pace. Other providers, such as Comcast and Mediacom, typically have caps around 250 GB. Some providers, such as Mediacom, have soft caps, i.e., caps in their terms of service agreement that are rarely enforced. Any meaningful action to help assure that consumers are informed of their broadband options should also address data limits, overage fees, usage monitoring, and data requirements of typical applications. Data caps and rates for overages need to be revealed in a prominent way prior to a subscriber entering into a service contract. An accurate and reliable means for subscribers to monitor their usage needs to be required of any broadband provider with caps and overage fees. Unfortunately, the history of providers meeting such minimum consumer protections is not good. Even when a method for monitoring usage is available they often have not been reliable.<sup>5</sup> Sometimes subscribers are totally unaware caps exist as they are not informed at the time they enter the contract.<sup>6</sup> In addition, Mediacom, and possibly other providers, engage in a practice that should be made illegal—having a data cap with overage charges but not informing consumers of

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<sup>4</sup> See: [http://www.multichannel.com/article/467475-Usage\\_Caps\\_Will\\_Now\\_Apply\\_To\\_56\\_Of\\_Broadband\\_Users.php](http://www.multichannel.com/article/467475-Usage_Caps_Will_Now_Apply_To_56_Of_Broadband_Users.php)

<sup>5</sup> See: <http://www.dslreports.com/shownews/112640>

<sup>6</sup> See: For example see: <http://www.dslreports.com/forum/r21917493-Mediacom-Bandwidth-Limits->

what those charges might be<sup>7</sup>. Just as with the NOI appendix, which gives guidance on the need for speed for different applications, a chart for data usage could be developed for high data applications such as downloading or streaming video in standard and high definition per minute, to provide customers with an understanding of possible needs.

## **Conclusion**

Broadband providers need to be required to provide specific information prior to a consumer entering into a service contract if consumers are going to be protected from misleading practices now common in the broadband marketplace. Information on the typical peak period bandwidth speeds, the speed requirements of common applications, the existence of any data caps, typical data usage of the most data-intense applications, and the fees for any overages should be provided in a clear and unambiguous terms. Broadband providers have a very poor record in accurately informing subscribers of the actual performance level of a broadband service they are marketing to consumers subscribes and have given no reason to believe they would do so unless required by regulation. The FCC needs to enact such regulations to provide a minimum level of consumer protection and help consumers understand their needs in a marketplace in which it is difficult for them to determine the level of performance they require.

Respectfully submitted,

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<sup>7</sup> The relevant section of the terms of service agreement reads: "You must comply with the bandwidth usage, data storage and other limitations on the Service that are in effect from time to time. Mediacom has established a monthly data consumption threshold of 250Gigabytes (GB). If your usage exceeds these limitations, Mediacom may at its sole discretion, charge you for the excess usage, reduce transmission speed or other Service parameters, limit, suspend or terminate the Service or take other actions."